

ITEM 921, 921A, 921B, 923 & 925 Punchbowl Road & 21
Canterbury Road, Punchbowl

Demolition of existing site structures and construction of a new facility for use as a registered club with shops/retail and office/business uses and car parking consisting of 420 spaces located in basement levels as well as at-grade, with other associated works including a new internal road, a publicly accessible courtyard and pocket park, associated civil engineering and drainage works and associated landscaping works

FILE DA-1075/2019

ZONING Part R2 Low Density Residential, part B1
Neighbourhood Centre and part SP2
Infrastructure

DATE OF LODGEMENT 16 December 2019

APPLICANT Cmt Architects Pty Ltd

OWNERS The Croatian Club Ltd

ESTIMATED VALUE \$40,927,500

AUTHOR Casandra Gibbons

SUMMARY REPORT

This matter is reported to the Sydney South Planning Panel in accordance with the provisions of *State Environmental Planning Policy (State and Regional Development) 2011*. The proposed development has an estimated value of \$40,927,500 which exceeds the capital investment threshold of \$30 million for 'general development'.

Development Application No. DA-1075/2019 proposes the demolition of existing site structures and construction of a new facility for use as a registered club with shops/retail and office/business uses, car parking consisting of 420 spaces located in basement levels as well as at-grade, with other associated works including a new internal road, a publicly accessible courtyard and pocket park, associated civil engineering and drainage works and associated landscaping works.

Development Application No DA-1075/2019 has been assessed against the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against *State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental*

Planning Policy (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment (a deemed SEPP), Bankstown Local Environmental Plan 2015, Bankstown Development Control Plan 2015 and the Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020.

The application fails to demonstrate compliance with provisions contained within *State Environmental Planning Policy 55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, Bankstown Local Environmental Plan 2015* and Bankstown Development Control Plan 2015.

The development fails the Bankstown Local Environmental Plan (BLEP) 2015 as the proposal does not establish permissibility of the development within the development site. The site contains a split zoning - B1 Neighbourhood Centre and R2 Low Density Residential. The development, as proposed, locates the access into and out of the development across the boundary of the B1 and R2 zoned properties, as well as accommodating a portion of the parking required within the R2 zone and utilising the gross floor area available on the R2 zoned land in the commercial development. The development further fails the development standards within the BLEP 2015, in respect to floor space ratio and height of buildings.

The site is subject to consideration of a planning proposal to rezone a number of properties included within this application from residential to business and associated floor space ratio and building height changes.

The planning proposal was lodged with Council on 11 July 2017. The Department of Planning Industry and Environment issued a Gateway Determination for the planning proposal on 25 May 2018. The determination required further studies and reports to be prepared and public authorities to be consulted prior to finalisation. An extension to the Gateway Determination timeframes to allow for the continued consideration of the planning proposal is currently under review. The likely determination date of the planning proposal is still uncertain. It is however envisaged that the specialist studies and planning agreement will be exhibited at the same time as the planning proposal mid next year.

The application was advertised for twenty one (21) days, from 15 January 2020 to 5 February 2020. Two submissions were received. Concerns were raised in respect to the following; a loss of views for the adjoining developments, the size and scale of the proposal, the viability of the commercial component proposed, the increase in vehicle movements resulting from the development proceeding, the number of the stores proposed and the impacts on stormwater, noise and privacy.

POLICY IMPACT

Approval of this application would have a direct policy impact for Council as the proposal breaches applicable building height and floor space ratio controls in addition to not being permissibility under the Bankstown Local Environmental Plan 2015. On this basis, and amongst other reasons, the application has been recommended for refusal.

FINANCIAL IMPACT

The proposed matter being reported has no direct financial implications.

RECOMMENDATION

It is recommended that the application be refused, for the following reasons:

1. The proposal fails to demonstrate compliance with State Environmental Planning Policy No. 55 (Remediation of Land) as insufficient information has been submitted for consideration. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
2. The proposal fails to demonstrate compliance with State Environmental Planning Policy (Infrastructure) 2007. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
3. The proposed development is prohibited in the R2 Low Density Residential zone under the Bankstown Local Environmental Plan 2015. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
4. The proposed development demonstrate compliance with the aims of the Bankstown Local Environmental Plan 2015. [Pursuant to *Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act, 1979*];
5. The development fails to demonstrate compliance with the provisions of Clause 4.3 of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*).
6. The development fails to demonstrate compliance with the provisions of Clause 4.4 of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*).
7. The development fails to demonstrate compliance with the provisions of Clause 6.2 of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*).
8. The development fails to demonstrate compliance with the provisions of Clause 6.3 of Bankstown Local Environmental Plan 2015 (Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act, 1979*).
9. The proposed development has failed to demonstrate that it will not cause an unacceptable level of impact on the locality. [Pursuant to *Section 4.15(1)(b) Environmental Planning and Assessment Act, 1979*];
10. The site is considered unsuitable for the proposed development [Pursuant to *Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979*];

11. The development is not considered to be in the public interest [Pursuant to *Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979*].

DA-1075/2019 ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is known as 921, 921A, 921B, 923 and 925 Punchbowl Road and 21 Canterbury Road, Punchbowl. The site is an irregular shaped allotment that is partly zoned B1 Neighbourhood Centre, partly zoned R2 Low Density Residential and partly zoned SP2 Infrastructure. The site has a primary frontage to Canterbury Road of approximately 97 metres and a secondary frontage to Punchbowl Road of approximately 121 metres. The site has an overall gradual fall from east to west, with a combined site area of 17,856.46m².

The site is located in the north western corner of the intersection of Canterbury Road and Punchbowl Road. The site currently contains a registered club known as 'Club Punchbowl' and its associated car parking. The sites current vehicular access is from Punchbowl Road, through No 921 Punchbowl Road. The site contains several easements for drainage and electricity supply and is bound by a water channel and overhead transmission lines to the west. The most significant easement impacting development of the site is located along the western boundary being the overhead transmission's lines traversing the site.



Figure 1: Aerial of subject site identified in red. **Source:** NearMaps 2020

The surrounding development consists of a mix of commercial and residential land uses. The site to the west is occupied by a building supplies facility (on Canterbury Road) and low density residential developments (fronting James Street and Sunny Crescent). The site to the east, on the north eastern corner of Punchbowl Road and Canterbury Road, is occupied by a service station. Further to the north, along Punchbowl Road, sites are occupied by low density residential housing types and associated structures. To the south of the site, across Canterbury Road, contains a mix of low-density residential dwellings and commercial development.

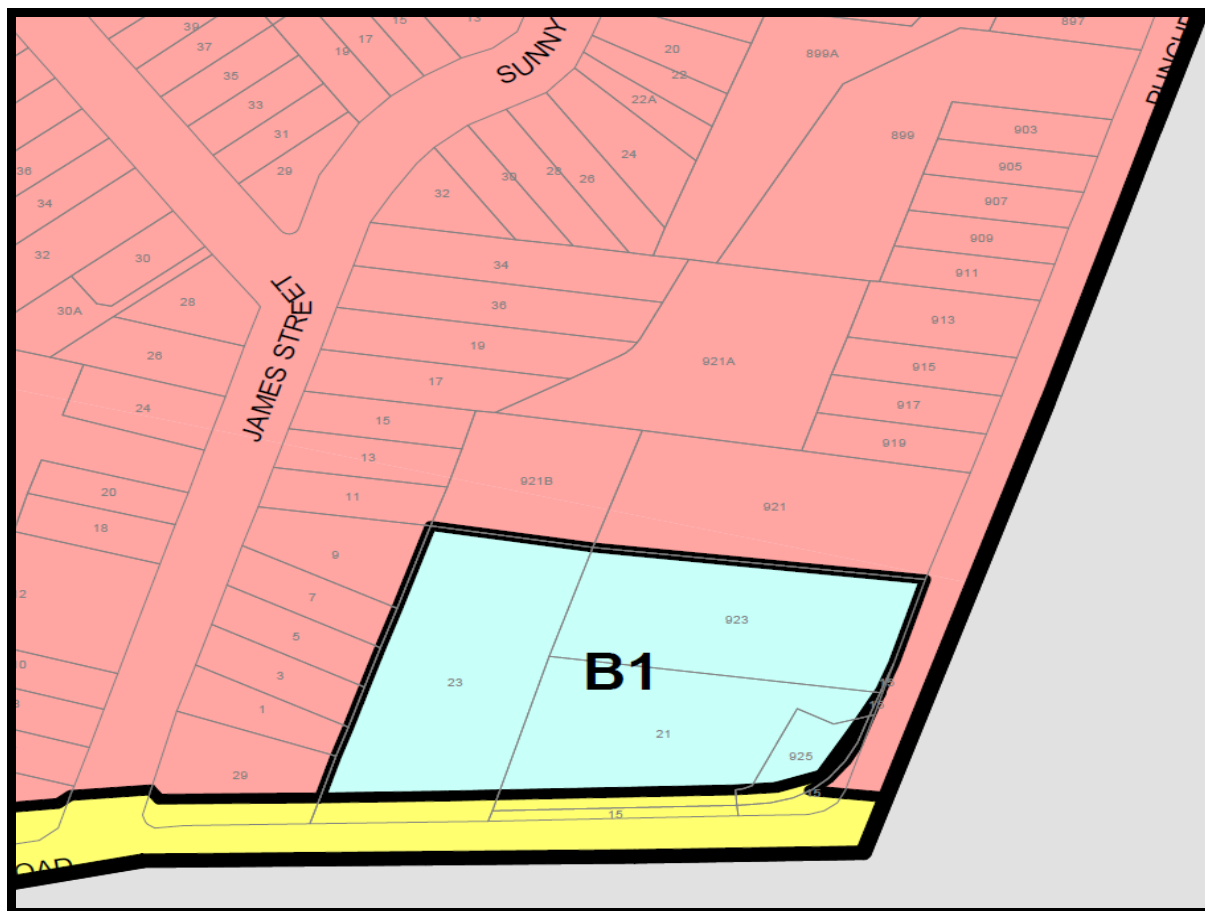


Figure 2: Extract of the zoning map

The development site is made up of six allotments, three of which are zoned R2 Low Density Residential known as 921, 921A and 921B Punchbowl Road. The remaining three allotments making up the 'site' are zoned B1 Neighbourhood Centre, known as 21 Canterbury Road, 923 and 925 Punchbowl Road. Two of the business zoned properties (21 Canterbury Road and 925 Punchbowl Road) are part zoned SP2 Infrastructure having been identified for potential road widening by TfNSW.

The allotments and their areas are provided below.

Property Address	Site area	SP2 site area
21 Canterbury Road	3,711.32sqm	366.1857sqm
925 Punchbowl Road	588.1sqm	210.2858sqm
923 Punchbowl Road	3,876sqm	-
921 Punchbowl Road	3,870sqm	-
921A Punchbowl Road	3,863sqm	-
921B Punchbowl Road	1,948sqm	-
Total Sqm	17,856.42sqm	576.47sqm
Total B1	8,175.42sqm	
Total B1 (excluding SP2)	7,598.94sqm	
Total R2	9,681sqm	
Total R2 and B1 (excluding SP2)	17,279.95sqm	

The proposal seeks to formally access and egress the site by 'straddling' the boundary between No 921 and No 923 Punchbowl Road. This boundary also provides for the change in zoning between B1 Neighbourhood Centre and R2 Low Density Residential. That is, No 923 Punchbowl Road (the southern lot) is zoned B1 while No 921 Punchbowl Road (the northern lot) is zoned R2 as shown in Figures 3 and 4 below.

A 'Registered Club' and 'Commercial premises' are prohibited within the R2 zone. The development has been designed and relies upon a portion of the R2 zoned land to provide vehicular access to the 'Registered Club' and the 'Commercial premises' and to provide the car parking required to enable these commercial operations.

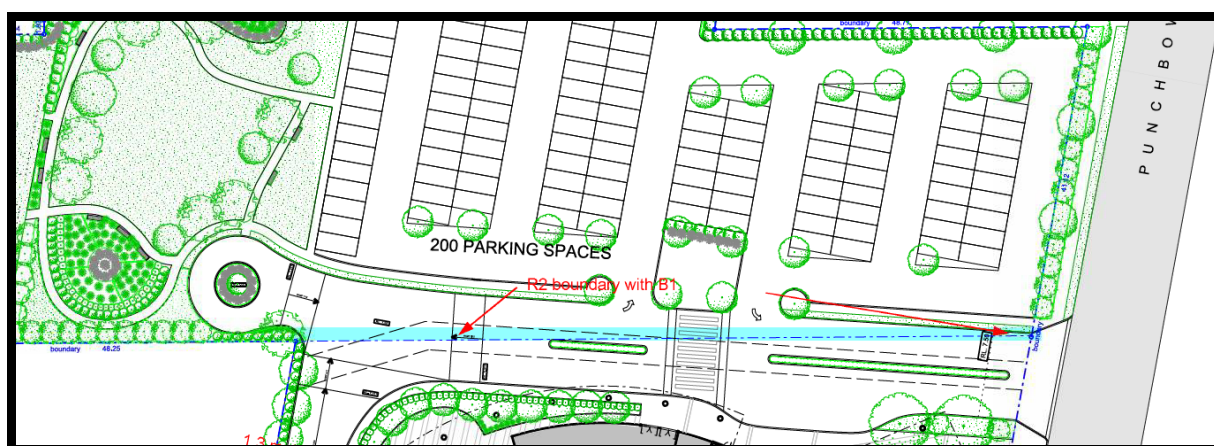


Figure 3: Access arrangements showing the boundary between No 921 and No 923 Punchbowl Road



Figure 4: Access arrangements with the zoning overlay

The development has further proportioned the GFA of the residential portion of the site area, into the commercial development, resulting in an allocation of GFA that it is inconsistent with planning legislation. This is detailed later in the report.

Planning Proposal

The site is currently subject to consideration of a planning proposal. The planning proposal seeks to rezone the R2 zoned parcels of land (that are subject to this application) to B1 Neighbourhood Centre which, in turn, will result in increased FSR and building height controls applying to these parcels of land.

The planning proposal was lodged with Council on 11 July 2017. The Department of Planning Industry and Environment issued a Gateway Determination for the planning proposal on 25 May 2018. The Gateway Determination required further studies and reports to be prepared and public authorities to be consulted prior to finalisation. An extension to the Gateway Determination, to allow for the continued consideration of the planning proposal, is currently under review. A timeline for the likely determination of the planning proposal is uncertain.

PROPOSED DEVELOPMENT

The development application proposes the demolition of existing site structures and a development containing the following:

Car parking accommodating a total of 420 car parking spaces including:

- Lower basement level car parking for 207 car parking spaces,
- Upper basement level car parking for 13 car parking spaces
- At-grade car parking for 200 spaces

Construction of a new facility for use as a registered club with shops/retail and office/business uses as follows:

Upper basement

- Supermarket
- Storage
- Waste room
- Loading area
- Central pedestrian circulation area with landscaping and escalators to ground level above

Ground level:

- Croatian Club/Registered Club
- Shops and business premises
- Outdoor public area and open space located within the R2 zoned land
- Internal road with access from Punchbowl Road
- Basement vehicular access on-site from proposed internal road

First level: Office space, open breezeways connecting building A and B

Second level: Office space, open breezeways connecting building A and B

Associated civil engineering works including stormwater and drainage infrastructure works and associated landscaping works.



Figure 5: Photomontage of the new building

AERIAL PERSPECTIVE - NORTH EAST

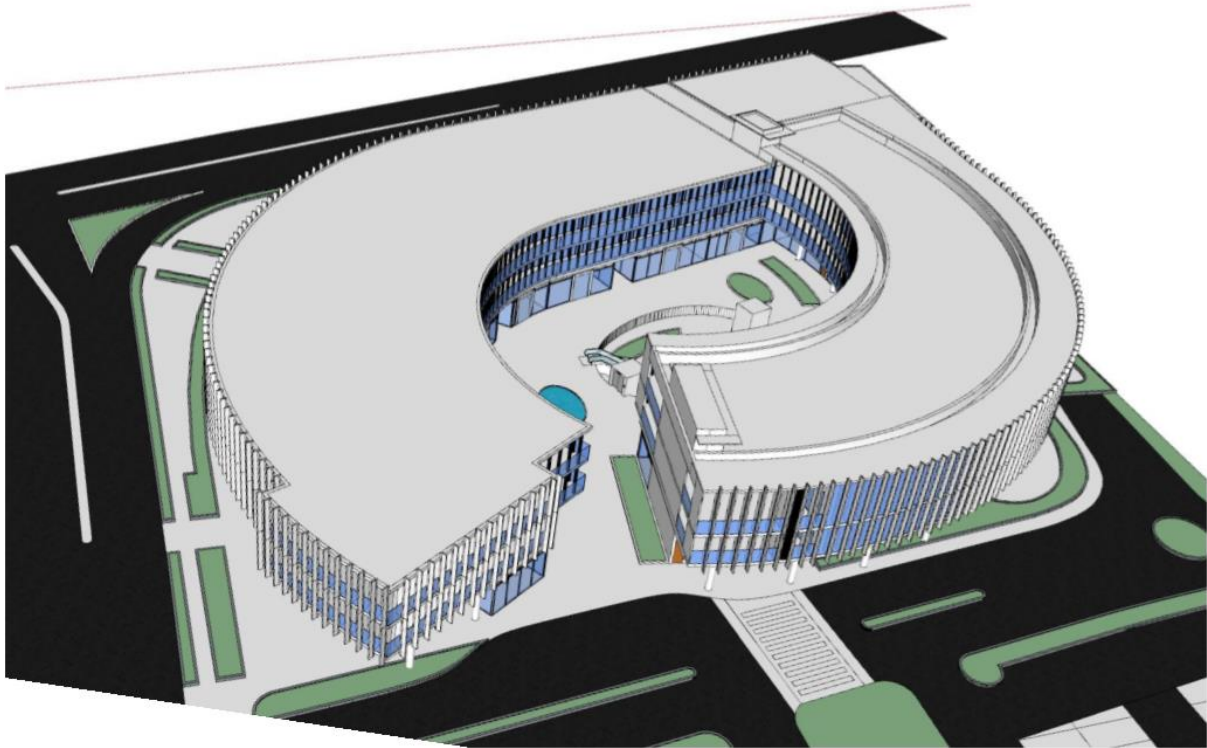


Figure 6: Aerial perspective of the new building

Statutory Considerations

When determining this application, the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 must be considered. In this regard, the following legislation, environmental planning instruments, development control plans, codes and policies are relevant:

- Water Management Act 2000
- State Environmental Planning Policy No 55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment
- Bankstown Local Environmental Plan 2015
- Bankstown Development Control Plan 2015
- Bankstown Section 94A Development Contributions Plan
- Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020

Water Management Act 2000

A Geotechnical Desktop Study Report prepared by Coffey Atetra Tech Company was submitted with the development application. The report noted the encountering of ground water within two of the wells accessed. The development further proposes works in proximity to a water course adjoining the site to the west. The application

was referred to NSW Natural Resources Access Regulator (NRAR) pursuant to Clause 91 of the *Water Management Act 2000*.

General terms of approval were issued by Water NSW. As such, it is considered that the development satisfies the requirements of the *Water Management Act 2000*.

SECTION 4.15 ASSESSMENT

The proposed development has been assessed pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*.

Environmental planning instruments [section 4.15(1)(a)(i)]

State Environmental Planning Policy (State and Regional Development) 2011

According to *State Environmental Planning Policy (State and Regional Development) 2011* a regional panel may exercise the consent authority functions of Council for the determination of development applications included in Schedule 7 of the SEPP. Schedule 7 includes 'General development'. The proposed capital investment value of \$30 million falls within this category. In the event that the capital investment value is \$40,927,500, the application is reported to the Sydney South Planning Panel for determination.

State Environmental Planning Policy No 55 – Remediation of Land

State Environmental Planning Policy No 55 (SEPP 55) requires the consent authority to consider whether the development site is contaminated and, if it is, whether it is suitable for the proposed development either in its contaminated state or following remediation works.

The site is an occupied by an existing registered club with its associated at grade carparking and vehicular access. The Statement of Environmental Effects that accompanied the development application discusses the preparation of a Detailed Site Investigation (DSI) report assessing the suitability of the site in respect to possible contamination. However, the DSI report referenced did not accompany the development application. In the event that the DSI report has not been provided, Council is unable to be satisfied that the site is or can be made suitable for the proposed development in accordance with Clause 7 of the SEPP. On this basis the application is not supported.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The site is located within land identified as being affected by *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment* (GMREP 2), being a deemed SEPP under Clause 120 of Schedule 6 of the *EP&A Act, 1979*. GMREP 2 contains a series of general and specific planning principles which are to be taken into consideration in the determination of development applications. An assessment of the proposal indicates that the development is generally consistent with the aims

and objectives of the plan, as well as the planning principles as set out in Clause 8 of GMREP 2.

State Environmental Planning Policy (Infrastructure) 2007

Ausgrid

The proposal was referred to Ausgrid pursuant to Division 5, Subdivision 2, Clause 45 'Determination of development applications – other development' of *State Environmental Planning Policy (Infrastructure) 2007*.

Ausgrid have advised that the proposed access and vegetation around their electricity tower is not suitable. They advise that electricity assets are not to be screened as it will cause shading of the steelwork and accelerate the degradation of the steel and its coating system. Plantings around the tower would impact the ability for Ausgrid to service, inspect and access the tower in an emergency situation. Ausgrid require continued access to assets for heavy machinery. It is unclear that this could be achieved in this design and may result in the need for parking of their vehicles away from the asset. The development appears to involve excavation around the tower. Further details will be required to determine how the construction will occur on site, depth of excavation around the tower (i.e. to ensure the footings of the tower are not impacted), etc. Further details around the earthing of the tower, soil/material and height are also required for assessment.

On the basis of the concerns raised by Ausgrid above, the proposal is not supported.

Roads and Maritime Service

The application was referred to Transport for NSW (TfNSW) as requiring concurrence for both traffic generating development and approval under Section 138 of the *Roads Act 1993*.

Transport for NSW responded and provided conditions of consent. The conditions of note include that the development be designed to ensure that any structure or improvements required for the operation of the development are clear of the land marked for future acquisition and that the development is limited to left in and left out only. Further they advised that the intersection is subject to the current Canterbury Road corridor and is subject to early investigations of potential Traffic and Transport Improvement Strategies.

Bankstown Local Environmental Plan 2015

The development site is part zoned R2 Low Density Residential, part zoned B1 Neighbourhood Centre and part zoned SP2 Infrastructure under the *Bankstown Local Environmental Plan 2015* (BLEP 2015). As such the following clauses of BLEP 2015 were taken into consideration:

Clause 1.2 – Aims of Plan

Clause 2.1 – Land use zones

Clause 2.2 – Zoning of land to which Plan applies
Clause 2.3 – Zone objectives and Land Use Table
Clause 2.7 – Demolition requires development consent
Clause 4.3 – Height of buildings
Clause 4.4 – Floor space ratio
Clause 4.5 – Calculation of floor space ratio and site area
Clause 6.1 – Acid sulfate soils
Clause 6.2 – Earthworks
Clause 6.3 – Flood planning

An assessment of the application against these clauses is provided below;

Clause 1.2 Aims of Plan

Clause 1.2 reads as follows;

1.2 Aims of Plan

- (a) to manage growth in a way that contributes to the sustainability of Bankstown, and minimizes the needs and aspirations of the community,*
- (b) to protect and enhance the landform and vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Bankstown,*
- (c) to protect the natural, cultural and built heritage of Bankstown,*
- (d) to provide development opportunities that are compatible with the prevailing suburban character and amenity of residential areas of Bankstown,*
- (e) to minimize risk to the community in areas subject to environmental hazards by restricting development in sensitive areas,*
- (f) to provide a range of housing opportunities to cater for changing demographics and population needs,*
- (g) to provide a range of business and industrial opportunities to encourage local employment and economic growth,*
- (h) to provide a range of recreational and community service opportunities to meet the needs of residents of and visitors to Bankstown,*
- (i) to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,*
- (j) to concentrate intensive trip-generating activities in locations most accessible to rail transport to reduce car dependence and to limit the potential for additional traffic on the road network,*
- (k) to consider the cumulative impact of development on the natural environment and waterways and on the capacity of infrastructure and the road network,*
- (l) to enhance the quality of life and the social well-being and amenity of the community.*

Comment: The application has failed to provide sufficient information to enable a comprehensive assessment against the relevant controls. On this basis, the proposal has not demonstrated consistency with the aims and objectives of the plan.

Clause 2.3 Zone objectives and Land Use Table

Clause 2.3(2) of BLEP 2015 states that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the B1 Neighborhood Centre are as follows:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To provide for certain residential uses that are compatible with the mix of uses in neighbourhood centres.*

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To allow for certain non-residential development that is compatible with residential uses and does not adversely affect the living environment or amenity of the area.*
- *To allow for the development of low density housing that has regard to local amenity.*
- *To require landscape as a key characteristic in the low density residential environment.*

The objectives of the SP2 Infrastructure zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

The Dictionary to BLEP 2015 defines a 'registered club' and 'commercial premises' as follows;

registered club means a club that holds a club licence under the [Liquor Act 2007](#).

commercial premises means any of the following—

- business premises,*
- office premises,*
- retail premises.*

A 'registered club' and 'commercial premises' are prohibited forms of development within the R2 Low Density Residential zone.

The development has failed to accurately account for the split in zoning across the development site relying on the residential zoned portion of the site to accommodate

car parking that's to account for the commercial element of the proposal while access to these parking spaces is, in part, via residentially zoned land. The use of a portion of the site zoned R2 for an accessway and car parking serving the commercial component of the development is not only prohibited but provides for a development that is inconsistent with the objectives of the R2 zoned land.

Clause 2.7 – Demolition requires consent

The demolition of the existing structures on site is proposed within this application. The proposal meets the consideration of the clause, and should consent be granted, conditions of consent are recommended to be imposed.

Clause 4.3 – Height of buildings

Figure 7 below provides for an extract of the Height of Buildings Map.

According to the Height of Buildings Map, buildings occupying Nos 923 and 925 Punchbowl Road and 21 Canterbury Road (which are those properties which are zoned B1 Neighbourhood Centre) are allowed a maximum building height of 11 metres while the remaining parcels of land, namely 921, 921A and 921B Punchbowl Road (which are those properties zoned R2 Low Density Residential) are allowed a maximum building height of 9 metres. The portion of the development site zoned SP2 Infrastructure does not contain a maximum building height.

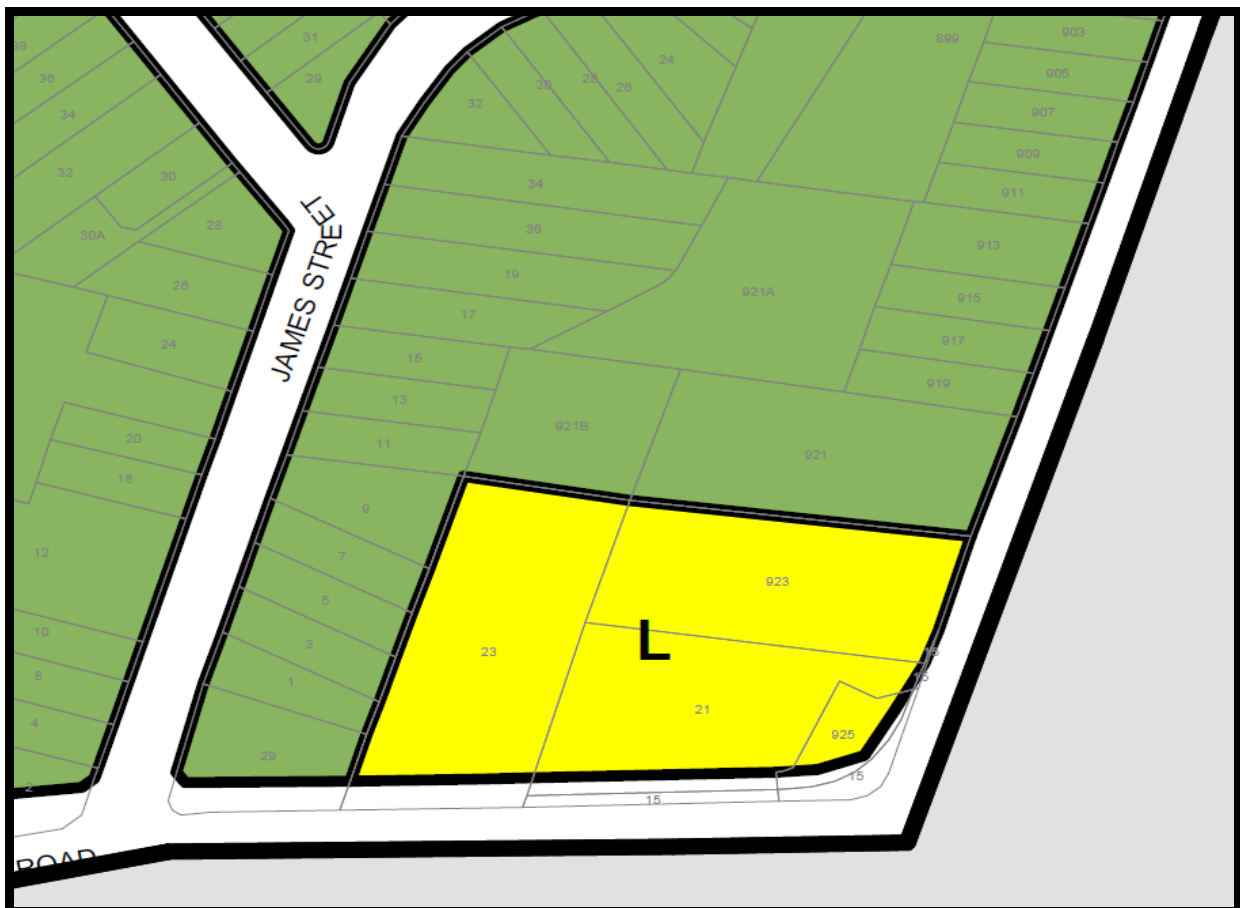


Figure 7: Extract of the Height of Buildings Map

The proposed 'built form' is contained entirely within the B1 Neighbourhood Centre zoned portion of the site. The built form provides for a maximum building height of 12.7 metres, exceeding the maximum height of 11 metres as specified within Clause 4.3 of BLEP 2015.

In response, the applicant submitted a Clause 4.6 variation. The Clause 4.6 variation seeks to justify the exceedance in height on the basis that the proposed development is lower in height than the existing structure that currently occupies the site and that the height is within the maximum height standard as proposed in the planning proposal (i.e. 17 metres).

The applicant's Clause 4.6 states that the proposal meets the objectives of the height control, as the development reinforces the corner along Canterbury Road and Punchbowl Road, contributes positively to the skyline, produces a landmark building at a major intersection and provides a focal point in the area. Consideration of the proposal with regard to view loss and overshadowing was included in the submission.

In accordance with Clause 4.6(4), Council must be satisfied with the following:

- (4) Development consent must not be granted for development that contravenes a development standard unless—*
 - (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*

As per Clause 4.6(4)(a)(i), the applicant's Clause 4.6 has not established that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case as per Clause 4.6(3). As per Clause 4.6(4)(a)(ii), the proposed development will not be in the public interest, having consideration of the objectives of the B1 Neighbourhood Centre zone and the objectives of the development standard.

Clause 4.4 – Floor space ratio

Figure 8 below provides for an extract of the Floor Space Ratio Map.

According to the Floor Space Ratio Map, developments occupying Nos 923 and 925 Punchbowl Road and 21 Canterbury Road (which are those properties which are zoned B1 Neighbourhood Centre) are allowed a maximum FSR of 1:1 while the remaining parcels of land, namely 921, 921A and 921B Punchbowl Road (which are those properties zoned R2 Low Density Residential) are allowed a maximum FSR of 0.5:1. The portion of the development site zoned SP2 Infrastructure does not contain a maximum floor space ratio.

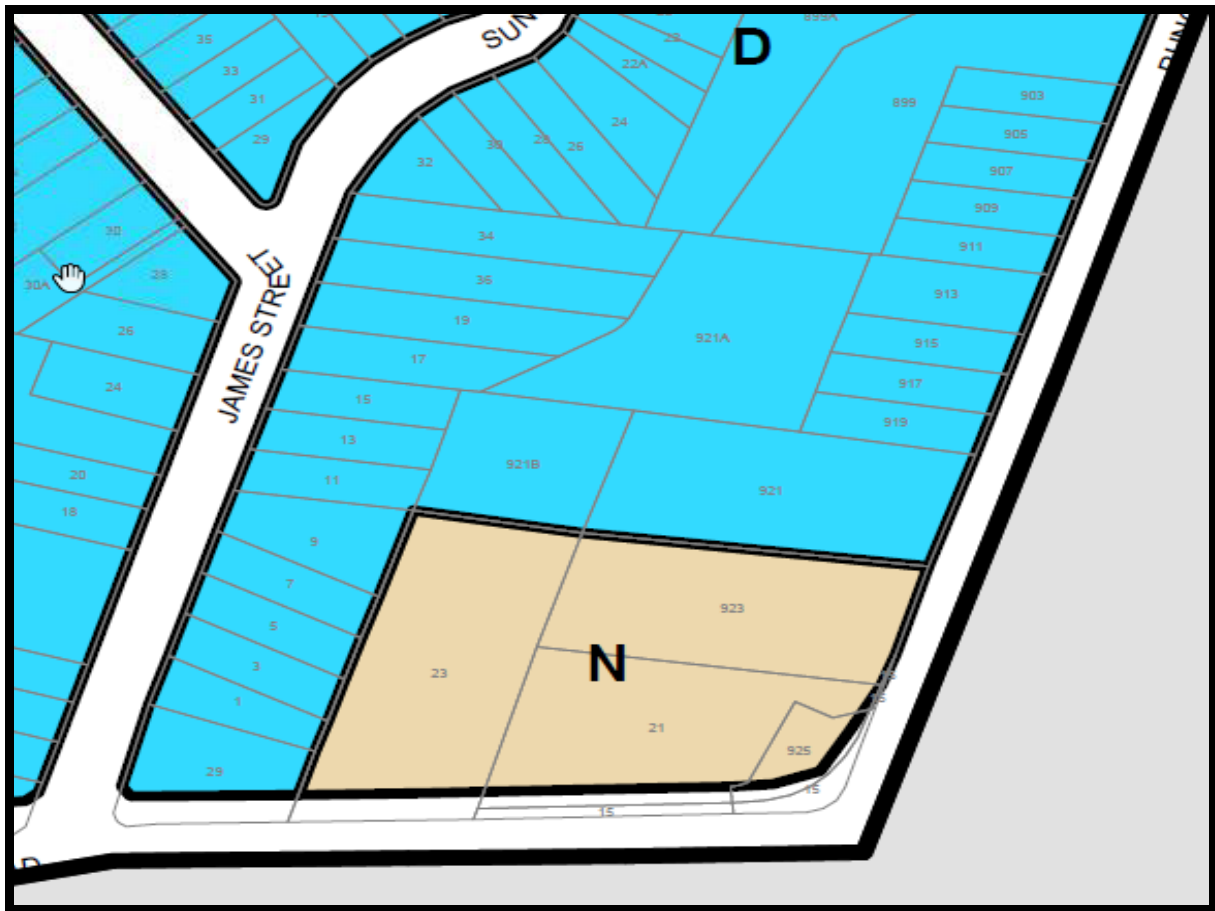


Figure 8: Extract of the Floor Space Ratio Map

Details relating to the site areas and the maximum FSR permitted in each zone are provided below;

Property Address	Site area	B1 site area	SP2 site area	R2 site area
21 Canterbury Rd	3,711.32m ²	3,345.14m ²	366.1857m ²	N/A
925 Punchbowl Rd	588.1m ²	377.6m ²	210.2858m ²	N/A
923 Punchbowl Rd	3,876m ²	3,876m ²	NA	N/A
921 Punchbowl Rd	3,870m ²	-	-	3,870m ²
921A Punchbowl Rd	3,863m ²	-	-	3,863m ²
921B Punchbowl Rd	1,948m ²	-	-	1,948m ²
Total sqm	17,856.42m²	7,598.74m²	576.43m²	9,681m²
Maximum FSR permitted in each zone		1:1 7,598.74m²	N/A	0.5:1 4,840.5m²

As indicated earlier, the proposed built form is confined to that portion of the site which is zoned B1 Neighbourhood Centre. That is, there is no built form proposed on the portion of the development site that is zoned either R2 Low Density Residential or SP2 Infrastructure.

As the table above indicates, the applicant is permitted a maximum gross floor area of 7,598.74m². The total gross floor area of the development equates to 13,656m². The application is therefore seeking consent for an FSR of 1.797:1 being an 80% departure to the development standard.

Having regard to the provisions contained within Clause 4.5 of BLEP 2015 (which are discussed below), the gross floor area that would otherwise be available for development of the R2 zoned portion of the site cannot be 'transferred' to the GFA afforded to the B1 zoned portion of the site. The area of SP2 zoned land, must also be excluded for the purposes of calculating FSR. Notwithstanding the provisions contained in Clause 4.5, had the R2 or the SP2 zoned site been eligible for consideration towards the sites total GFA, the total GFA that could be achieved would be 13,015.67m², being short of the 13,656m² permitted.

A Clause 4.6 variation has not been submitted.

Clause 4.5 Calculation of floor space ratio and site area

In accordance with the BLEP 2015, the objectives of Clause 4.5 are provided below;

(1) **Objectives** *The objectives of this clause are as follows—*

(a) *to define **floor space ratio**,*

(b) *to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to—*

(i) *prevent the inclusion in the site area of an area that has no significant development being carried out on it, and*

(ii) *prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and*

(iii) *require community land and public places to be dealt with separately.*

The clause continues to further define 'floor space ratio', 'site area' and what is excluded from 'site area' for the purposes of calculating FSR. Clause 4.5(2), (3) and (4) are provided below:

(2) **Definition of "floor space ratio"** *The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.*

(3) **Site area** *In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** is taken to be—*

(a) *if the proposed development is to be carried out on only one lot, the area of that lot, or*

(b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) Exclusions from site area *The following land must be excluded from the site area—*

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,*
- (b) community land or a public place (except as provided by subclause (7)).*

The applicant has included the GFA that is permitted on the R2 zoned portion of the site towards the commercial development. As indicated earlier, the 'commercial premises' and the 'registered club' are prohibited on land zoned R2. Clause 4.5(3) and 4.5(4)(a) states that '*land on which the proposed development is prohibited*' ... '*is to be excluded from the site area*'. Clearly having regard to the provisions contained in BLEP 2015, for the purpose of GFA, the GFA cannot be distributed in this manner.

The application fails to correctly account for the FSR and site area constraints within the proposal given the split zoning. This has resulted in a development with a significant breach to the maximum permissible FSR and, as a consequence, maximum permissible building height.

Clause 6.1 – Acid sulfate soils

The site is noted as containing Class 3 and Class 5 acid sulfate soils. In accordance with the provisions of BLEP 2015, where works within Class 3 acid sulfate soils propose disturbance of more than 1m below natural ground level, an Acid Sulfate Soils Management Plan is required. The application was accompanied by a Preliminary Acid Sulfate Soil Management Plan. The plan was reviewed and considered satisfactory.

Clause 6.2 – Earthworks

In accordance with Clause 6.2 of BLEP 2015, in deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), Council must consider the following:

- a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- b) the effect of the development on the likely future use or redevelopment of the land,*
- c) the quality of the fill or the soil to be excavated, or both,*

- d) the effect of the development on the existing and likely amenity of adjoining properties,*
- e) the source of any fill material and the destination of any excavated material,*
- f) the likelihood of disturbing relics,*
- g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- h) any appropriate measures proposed to avoid, minimize or mitigate the impacts of the development.*

In the absence sufficient information being submitted by the applicant Council's development engineers are not of the view that the development will not result in any determinately impacts on the adjoining sites as a result of the works proposed. Further details and amended plans would be required for consideration to ensure compliance with this clause.

Clause 6.3 – Flood planning

In accordance with Clause 6.3 of BLEP 2015, Council must consider the following matters in regard to flood planning:

- (a) is compatible with the flood hazard of the land, and*
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Council's development engineers have reviewed the information submitted and are not satisfied that the proposal has adequately demonstrated the flow depths and velocities in relation to the flooding on site and the potential impact on the subject development and adjoining properties. The information submitted was reliant upon a 2016 flood study as stated in the 'Geotechnical Desktop Study' that was completed. Further updated and detailed information in the form of a flood/overland flow study is required.

Draft environmental planning instruments [section 4.15(1)(a)(ii)]

The following draft environmental planning instrument applies to this development.

Draft Canterbury Bankstown Consolidated Local Environmental Plan 2020

The Draft Canterbury Bankstown Local Environmental Plan 2020 (CBLEP 2020) applies to the subject site. Draft CBLEP 2020 has been publicly exhibited and was adopted by the Canterbury Bankstown Local Planning Panel on 30 June 2020 and is now to be reviewed by the Department of Planning. While the draft instrument

proposes the introduction of some additional provisions, in the most part, Draft CBLEP 2020 provides for an administrative conversion of both the BLEP 2015 and CLEP 2012 into a combined document under the Standard Instrument LEP template.

With respect to the proposed development the proposal remains inconsistent with the aims and objectives of the draft instrument. The proposed development is inconsistent with the provisions as outlined in this assessment.

Development control plans [section 4.15(1)(a)(iii)]

The following table provides a summary of the development application against the controls contained in ‘Part B2 – Commercial Centres’ and ‘Part B5 – Parking’ of the Bankstown Development Control Plan 2015.

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
Part B2 Centres Section 2 + Neighbourhood Centres	Objectives The objectives are: (a) To have development that is compatible with the desired character and role of the particular centre. (b) To have development that achieves good urban design in terms of building form, bulk, architectural treatment and visual amenity (c) To have development that provides adequate amenity to people who live in, work in and visit the neighbourhood centres (d) To ensure the building form and building design of development provide appropriate amenity to neighbouring residential development in terms of access to sunlight and privacy (e) To provide storey limits for the neighbourhood centres	The bulk and scale of the development provides for a built form that is not only inconsistent with the controls contained within Part B2 but also the objectives that guide these controls. The scale of the development is excessive as evidenced by its failure to comply with the applicable building height and floor space ratio controls in the BLEP. The resultant built form is not consistent with the form, scale and character envisaged on a site within a Neighbourhood Centre zone.	No
Lot widths	The minimum primary frontage for commercial development, shop top housing (containing a single dwelling), and mixed use development (that do not contain dwellings) is 6 metres	The application is for commercial development with a primary frontage in excess of 6m	Yes
Storey limit	Development must comply with the storey limit that corresponds with the maximum building height shown for the site on the Height of Building Map as follows:	The portion of the site that is zoned B1 has a maximum permissible building height of 11m. The site is not listed within the table, therefore the maximum storey limit is 2 storeys (plus an attic).	No

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES										
	REQUIRED	Proposed											
	<table border="1"> <thead> <tr> <th>Maximum building height as shown on the Height of Buildings Map (Bankstown LEP 2015)</th> <th>Storey limit (not including basements)</th> </tr> </thead> <tbody> <tr> <td>11 metres for the following neighbourhood centres:</td> <td>3 storeys (no attic)</td> </tr> <tr> <td> <ul style="list-style-type: none"> • 255A-257 Hector Street Bass Hill • 259 Hector Street Bass Hill • 360-366 Hector Street Bass Hill • 826 Hume Highway Bass Hill • 884-906 Hume Highway Bass Hill • 207-231 Miller Road Bass Hill • 35-55 Arlewis Street Chester Hill • 172 Hector Street Chester Hill • 178 Hector Street Chester Hill • 63-79 Middleton Road Chester Hill • 81-91 Miller Road Chester Hill • 68-70B Miller Road Chester Hill • 27 Woodville Road Chester Hill • 35 Woodville Road Chester Hill • 47 Woodville Road Chester Hill • 101-109 Denman Road Georges Hall • 21A-25A Hector Street Sefton • 251 & 253 Hector Street Sefton </td> <td></td> </tr> <tr> <td>11 metres for all other neighbourhood centres</td> <td>2 storeys (plus attic)</td> </tr> <tr> <td>14 metres</td> <td>4 storeys (no attic)</td> </tr> </tbody> </table>	Maximum building height as shown on the Height of Buildings Map (Bankstown LEP 2015)	Storey limit (not including basements)	11 metres for the following neighbourhood centres:	3 storeys (no attic)	<ul style="list-style-type: none"> • 255A-257 Hector Street Bass Hill • 259 Hector Street Bass Hill • 360-366 Hector Street Bass Hill • 826 Hume Highway Bass Hill • 884-906 Hume Highway Bass Hill • 207-231 Miller Road Bass Hill • 35-55 Arlewis Street Chester Hill • 172 Hector Street Chester Hill • 178 Hector Street Chester Hill • 63-79 Middleton Road Chester Hill • 81-91 Miller Road Chester Hill • 68-70B Miller Road Chester Hill • 27 Woodville Road Chester Hill • 35 Woodville Road Chester Hill • 47 Woodville Road Chester Hill • 101-109 Denman Road Georges Hall • 21A-25A Hector Street Sefton • 251 & 253 Hector Street Sefton 		11 metres for all other neighbourhood centres	2 storeys (plus attic)	14 metres	4 storeys (no attic)	<p>The application proposes 3 commercial storeys / levels, and a supermarket 'basement level'.</p>	
Maximum building height as shown on the Height of Buildings Map (Bankstown LEP 2015)	Storey limit (not including basements)												
11 metres for the following neighbourhood centres:	3 storeys (no attic)												
<ul style="list-style-type: none"> • 255A-257 Hector Street Bass Hill • 259 Hector Street Bass Hill • 360-366 Hector Street Bass Hill • 826 Hume Highway Bass Hill • 884-906 Hume Highway Bass Hill • 207-231 Miller Road Bass Hill • 35-55 Arlewis Street Chester Hill • 172 Hector Street Chester Hill • 178 Hector Street Chester Hill • 63-79 Middleton Road Chester Hill • 81-91 Miller Road Chester Hill • 68-70B Miller Road Chester Hill • 27 Woodville Road Chester Hill • 35 Woodville Road Chester Hill • 47 Woodville Road Chester Hill • 101-109 Denman Road Georges Hall • 21A-25A Hector Street Sefton • 251 & 253 Hector Street Sefton 													
11 metres for all other neighbourhood centres	2 storeys (plus attic)												
14 metres	4 storeys (no attic)												
Setbacks													
Primary and Secondary	<p>The minimum setback to the primary and secondary frontages of an allotment is zero setback for the basement level, the first storey (i.e. the ground floor), and the second storey.</p>	<p>The development complies with the setbacks proposed to the basement level, ground and first floor.</p> <p>The proposal includes a third storey that is not permitted as the site has a maximum 2 storey height limit</p>	<p>No, as the control does not allow for a third storey element.</p>										
Side and rear	<p>Where development is adjacent to residential zoned land, Council may increase the minimum setbacks to the side and rear boundaries.</p>	<p>The setbacks to the adjoining R2 zoned land, not part of this application, are satisfactory</p>	<p>Yes</p>										
	<p>For blank building walls with no window or balcony, the minimum setback to the side and rear boundaries of an allotment is zero setback for the basement level, the first storey (i.e. the ground floor), and the second storey.</p>	<p>The development proposes a zero setback to the side boundary adjoining 23 Canterbury Road for a portion of the built form (18.5m) on the ground floor, level 1 and level 2.</p> <p>The proposal includes a third storey that is not permitted as the site has a maximum 2 storey height limit</p>	<p>No, as the control does not allow for a third storey element.</p>										
	<p>For building walls with a window or balcony in commercial development, shop top housing, and mixed-use development that contains dwellings, the minimum setbacks to the side and rear boundaries of an allotment are:</p> <p>(a) 3 metres for the first storey (i.e. the ground floor). Council may allow a setback less than 3 metres provided it complies with the Building Code of Australia; and</p>	<p>The development proposes a setback of zero to 4.5m on the ground floor and zero to 2.5m on the upper levels when viewed from the south western boundary, widening further as the building continues to the north along the western boundary.</p> <p>Building A along the</p>	<p>No, as the control does not allow for a third storey element.</p>										

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	(b) 3 metres for the second storey.	<p>western boundary contains the Registered Club with the ground floor, two levels of commercial (levels 1 and 2) and a roof top recreation space.</p> <p>The portion of the building wall with a zero setback to the western boundary is a blank wall.</p> <p>Where the western wall has not proposed a zero setback, the building walls contain glazing and an open breezeway on levels 1 and 2. The setbacks to the boundary are provided below:</p> <p>Levels 1 and 2 – 2.5m to glazing at closest point</p> <p>Levels 1 and 2 – 3.2m setback to open breezeway for a length of 17m.</p>	
Setbacks within an allotment	The minimum setbacks between two or more habitable buildings on an allotment in the neighbourhood centres are: (a) 9 metres between the external enclosing walls of dwellings; and (b) 6 metres between the balconies, above ground decks, and the like of dwellings	Neither building contains habitable spaces	N/A
Building form and design	Council applies the design quality principles of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and the Apartment Design Guide to residential flat buildings, shop top housing, serviced apartments, boarding houses and mixed use development (containing dwellings). This includes buildings that are two storeys or less or contain less than four dwellings.	There are no residential land uses proposed in this application	N/A
Building design (substations)	The location and design of substations must be shown on the plans.	No details were provided as to the location of a substation	No
	Substations should locate underground. Where not possible,	No details were provided as to the location of a	No

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	substations are to be integrated into the building design and concealed from public view.	substation	
	Substations must not locate forward of the front building line.	No details were provided as to the location of a substation	No
Building Design (utilities and building services)	The location and design of utilities and building services (such as plant rooms, hydrants, equipment and the like) must be shown on the plans.	No details were provided as to the location of any building services	No
	Utilities and building services are to be integrated into the building design and concealed from public view.	No details were provided as to the location of any building services	No
Section 5 Building design	<p>Objectives</p> <p>(a) To have high architectural quality in development.</p> <p>(b) To encourage building facades and corner allotments to add visual interest to the streetscape.</p> <p>(c) To provide pedestrian comfort and protection from the weather.</p> <p>(d) To have facade designs and building footprints that integrate into the overall building form and enhance the desired contemporary street character.</p> <p>(e) To have a modern and interesting roof skyline.</p> <p>(f) To give the Hume Highway the appearance of a business enterprise corridor by creating active business frontages and limiting the domestic appearance of attics.</p> <p>(g) To have front fences that achieve an attractive streetscape and incorporate open style construction such as spaced timber pickets or wrought iron.</p> <p>(h) To ensure the design of dwellings are adaptable to a number of family types, and cater for senior residents and residents with disabilities.</p> <p>(i) To provide adequate amenity to the occupants of buildings and to neighbouring residential development in terms of solar access.</p> <p>(j) To provide adequate amenity to the occupants of buildings in terms of open space.</p>	<p>While the development provides for a somewhat repetitive presentation to both Punchbowl Road and Canterbury Road, it reads as being both strong and resilient.</p> <p>However, concerns are raised over the practicality and functionality of the floor plans proposed, in particular for the basement supermarket and the ground floor retail land uses.</p> <p>The 3000sqm basement supermarket is in an arc shape with limited access and delivery provisions. This reduces the ability for larger vehicles to access the site making the viability and adaption of the large space for a supermarket unlikely.</p> <p>Whilst the façade provides for a modern edge to the intersection it fails to propose a design that will sit within the context of Canterbury Road and its intersection with Punchbowl Road. The ground floor has a poor interface to the street, should the SP2 portion of the land be</p>	No

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	<p>(k) To provide appropriate landscaping in commercial centres.</p> <p>(l) To have a landscape buffer zone that encourages deep soil planting to enhance commercial centres or arterial roads.</p> <p>(m) To ensure the siting and design of buildings contribute to the personal and property security of people.</p> <p>(n) To ensure development is integrated with the public domain and contribute to an active pedestrian orientated environment.</p> <p>(o) To maximise natural surveillance so that people feel safe at all times.</p> <p>(p) To encourage building designs, materials and maintenance programs that reduce the opportunities for vandalism and graffiti.</p>	<p>acquired and the intersection widened.</p> <p>The built form proposed is excessive and presents a bulk and scale that is not compatible with the site and its context.</p> <p>The development has not provided a softening to the street edge through the provisions of landscaping, rather has relied upon the existing road way/verge to provide for the softening and landscape edge to the commercial development</p>	
Façade design	<p>Development must articulate the facades to achieve a unique and contemporary architectural appearance that:</p> <p>(a) unites the facades with the whole building form;</p> <p>(b) composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character;</p> <p>(c) combines high quality materials and finishes;</p> <p>(d) considers the architectural elements shown in the illustration to this clause; and</p> <p>(e) considers any other architectural elements to Council's satisfaction.</p>	<p>The design presented is a consistent design that is unified across the development. The façade design incorporates high quality finishes with glazing and fixed vertical copper panels and horizontal timber look screening.</p> <p>The facades, whilst aesthetically pleasing, do not propose a scale of development that responds to the site and the desired character of the area, owing to the controls in place to govern the built form in terms of FSR, height, storey limits and setbacks.</p> <p>On the basis that the built form presented represents a significant overdevelopment of the site, the application and design is not consistent with the design controls.</p>	No
	<p>Development must architecturally treat blank walls that can be viewed from the street and adjoining residential zoned land by</p>	<p>No architectural treatment of the blank wall to the western elevation of Building A has been</p>	No

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	incorporating public art, variation in building materials and/or other architectural design methods which reflect contemporary and interesting design.	shown	
	The street facade of development on corner allotments should incorporate architectural corner features to add visual interest to the streetscape.	The façade of the development provides for visual interest to the streetscape wrapping the corner of Canterbury and Punchbowl Road.	Yes
	Development should restrict the use of the first storey (i.e. the ground floor) to business, retail or other non-residential uses: (a) to maintain business and retail floor space in the business zones; and (b) to maintain active street frontages in the business zones.	The proposed land uses satisfy this control.	Yes
	Development in enterprise corridors may have predominantly glazed facades provided it does not cause significant glare nuisance.	The site is not located within an enterprise corridor.	N/A
Attic and roof design	Development must incorporate a high-quality roof design that: (a) achieves a unique and contemporary architectural appearance; and (b) combines high quality materials and finishes.	Building A seeks to incorporate a recreation space on top of the roof. The design of the overall building utilises materials and finishes to the façade that provide visual interest and achieves a contemporary built form. The inclusion of a recreation space to the roof area within the development does not result in a contemporary appearance, rather provides for a disconnect between the commercial operations on site and the recreation space shown.	No
	Council does not allow the following development to have attics: (a) development with 4 or more storeys in the village, small village and neighbourhood centres that adjoin the Hume Highway; or (b) development in the enterprise corridors (this does not include residential development up to 2 storeys at the rear of an allotment).	The applicant is not seeking to provide an attic level.	N/A
Awnings	A traditional box awning must be provided continuously along retail streets to provide pedestrian shelter	A small awning of 2m is proposed integrated into the overall design along	Yes

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	to footpaths. Council may allow an awning other than a traditional box awning where it considers: (a) the awning design to be an integral feature of the building design; and (b) the awning design does not contain finishes susceptible to degradation (such as glazing material) that result in an unacceptable visual impact on the streetscape. Council does not support cut outs in awnings for trees and light poles.	the Canterbury and Punchbowl Road frontage.	
	The height of an awning should: (a) match the height of an adjoining or nearby awning; and (b) have a consistent fascia height to accommodate a sign.	While there are no adjoining awnings the height is consistent across the development and could accommodate a sign.	Yes
	Development may incorporate an awning design in the enterprise corridors that: (a) achieves a unique and contemporary architectural appearance; and (b) combines high quality materials and finishes.	The site is not located within an enterprise corridor.	N/A
Front fences	The external appearance of a front fence along the street boundary of an allotment must ensure: (a) the section of the front fence that comprises solid construction (not including solid piers) must not exceed a fence height of 1 metre above natural ground level; and (b) the remaining height of the front fence must comprise open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.	No front fencing has been proposed	N/A
	Council does not allow the following types of front fences along the street boundary of an allotment: (a) chain wire, metal sheeting, brushwood and electric fences; and (b) noise attenuation walls.	No front fencing has been proposed	N/A
Lighting	External lighting to development must give consideration to the impact of glare on the amenity of adjoining residents.	The design does not prevent conditions of consent being able to be imposed to satisfy this control	Yes
	This clause applies to development that adjoin the Hume Highway:	The development site does not adjoin the Hume	N/A

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	(a) the use of external lighting should accentuate the architectural form and features of development provided it does not cause significant glare on neighbours; and (b) the use of exterior wall mounted flood lights is permitted at the front of development, but not permitted at the rear of development unless it serves as security lighting.	Highway.	
Acoustic Privacy	An office, shop, food premises and the like in neighbourhood centres must not open before 6.30am or close later than 10.00pm seven days a week.	No acoustic report accompanied the development application notwithstanding that the applicant seeks to operate a registered club from the site (and other commercial land uses)	No
Access to sunlight	The living areas for at least 70% of dwellings in a development must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Council may allow light wells and skylights to supplement access to sunlight. However, these building elements must not be the primary source of sunlight to living areas. This clause applies to development that contain two or less storeys, or three or less dwellings such as shop top housing, mixed use development and residential flat buildings.	No residential land uses are proposed within this development.	N/A
	The living areas of a dwelling on an adjoining allotment must receive a minimum sum of 3 hours of sunlight between 8.00am and 4.00pm at the mid-winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling.	The site is bound to the south by Canterbury Road, to the east by Punchbowl Road and to the west by a commercial development. It is not considered that the proposal will result in any significant impacts on the existing residential developments to the south or east in terms of solar access.	Yes
Private open space	The private open space per dwelling must have a minimum depth of 2 metres and the private open space may be in the form of a balcony. This clause applies to development that contain two or less storeys, or three or less dwellings such as shop top housing.	No residential land uses are proposed within this development.	N/A

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
Landscape	<p>This clause applies to development in the village centres, small village centres, neighbourhood centres and enterprise corridors that adjoin the Hume Highway.</p> <p>Development and a landscape buffer zone must plant a 75 litre tree at 5 metre intervals along the length of the Hume Highway boundary of an allotment, and must select the trees from the list in Appendix 1.</p>	The development site does not adjoin the Hume Highway.	N/A
	<p>Commercial development and residential flat buildings with a primary frontage of 5 metres or more must provide at least 1 street tree per 5 metres of primary frontage. Council may vary this requirement if a street tree already exists in good condition, if an awning or site constraints limit their inclusion, or a public domain plan is yet to determine the location of trees in a precinct.</p>	Conditions of consent are able to be imposed to satisfy this requirement.	Yes.
Entrances	The main entrance or entrances to development must face the street.	The main entrance faces the street. However, some components of the development can only be accessed internally. Access to the supermarket is from the basement level or internal to the site, with no street presentation.	No
Building design and natural surveillance	Windows to the living areas of front dwellings, or the windows on the upper floors of development must overlook the street.	No residential land uses are proposed within this development.	N/A
	<p>Where the ground floor of development faces the street, the ground floor must incorporate shopfront style windows with clear glazing so that pedestrians can see into the premises and vice versa. The use of obscure or opaque glass, or other types of screening is discouraged.</p>	The ground floor commercial units provide for glazing along the street frontage.	Yes
	Above ground car parking must be setback a minimum 6 metres from the front building line to allow the gross floor area at the front of the building to be used for commercial, retail, or residential purposes. This clause does not apply to the front building line that faces a rear lane.	The development incorporates at grade car parking within the R2 zoned portion of the site. Refer to an earlier section of this report which discusses the issues around providing car parking meeting the	No

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
		requirements for the B1 zoned land on the R2 zoned land	
	A public arcade or underpass in buildings must be wide and direct to avoid potential hiding places. Access to the arcade or underpass should be closed to the public between 11.00pm to 6.00am daily via a lockable door.	<p>The through site links 'arcades' shown between the retail tenancies in Building B provide access to the rear of the site and are narrow in presentation. The length of the arcade is for the depth of two retail tenancies. It is unclear how the areas will work to ensure safety and surveillance of the area for visitors and staff.</p> <p>The potential uses may require back of house or glazing to the shopfronts internal to the arcade in order to operate, reducing the ability for passive surveillance to occur.</p>	No
	Lighting must be provided to the underside of an awning using vandal resistant, high mounted light fixtures.	Conditions of consent can be imposed to achieve this requirement.	Yes.
Security devices for commercial development	The security door or grille to a shopfront facing the street must be transparent or an open grille type shutter. A solid roller door or shutter is not permitted.	No security measures have been identified on the plans.	No
Special requirements for development adjoining a railway corridor and open stormwater drains	<p>Where an allotment shares a boundary with a railway corridor or an open stormwater drain, any building, solid fence or car park on the allotment should, wherever practical, be setback a minimum 1.5 metres from that boundary. The setback distance must be:</p> <p>(a) treated with hedging or climbing vines to screen the building, solid fence, or car park when viewed from the railway corridor or open stormwater drain; and</p> <p>(b) the hedging or climbing vines must be planted prior to the completion of the development using a minimum pot size of 300mm; and</p> <p>(c) the planter bed area must incorporate a commercial grade, sub-surface, automatic, self-timed irrigation system; and</p>	Suitable and appropriate landscaping has been proposed adjoining the stormwater drain.	Yes

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
	<p>(d) the allotment must be fenced along the boundary using a minimum 2 metre high chain-wire fence; and</p> <p>(e) where a car park adjoins the boundary, hedging or climbing vines must also be planted along the sides of any building or solid fence on the allotment that face the railway corridor or open stormwater drain.</p> <p>If a setback for landscaping under this clause is impractical, other means to avoid graffiti</p>		
Development adjacent to residential zones	<p>In determining a development application that relates to land adjoining land in Zone R2, R3 or R4, Council must take into consideration the following matters:</p> <p>(a) whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone;</p> <p>(b) whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development;</p> <p>(c) whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the mid-winter solstice;</p> <p>(d) whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised;</p> <p>(e) whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like; and</p> <p>(f) whether any windows or balconies facing residential areas will be treated to avoid overlooking of private yard space or windows in residences.</p>	<p>The development includes land that is zoned R2 and further to the north adjoins R2 zoned sites.</p> <p>The development is considered incompatible as the development is inconsistent with the height, bulk and scale permitted within the B1 portion of the site.</p> <p>The development, in the context of adjoining R2 zoned land, is inconsistent with the existing and desired character of the locality.</p> <p>An acoustic report did not accompany the development application. As such it is not considered that the proposal has demonstrated that it will not have a significant impact on the surrounding properties.</p> <p>The proposal has failed to demonstrate adequate provisions on site to mitigate impacts in respect to parking and traffic movement. Details on the clubs operation and the roof top open space have not been provided to adequately</p>	No.

STANDARD	PART B2 and B5 of BDCP 2015		COMPLIES
	REQUIRED	Proposed	
		assess the potential impacts resulting from the operation of the spaces within the development.	
Part B5 Parking			
Car Parking	<p><i>BDCP 2015 Part B5 parking</i></p> <p>Registered Club</p> <p><i>Does not have a parking rate and requires the submission of a parking and traffic assessment.</i></p> <p>Other centres - Business/Office Premises 1 per 40m²</p> <p>6,760.2sqm / 40sqm = 169</p> <p>Required: 169 for the business/commercial floor space</p> <p>Shops</p> <p>Developments of greater than or equal to 4,000m² gross floor area A parking survey should be carried out by the applicant, to assess the appropriate level of parking for developments greater than 4,000m² in gross floor area.</p>	<p>A parking and traffic assessment for the development was submitted for consideration for the uses across the site. The traffic reported evaluated the operations and estimated that cumulatively, the site would require 463 car parking spaces to accommodate the uses proposed.</p> <p>The report noted that the requirement for 463 spaces on site was an unrealistic number as the commercial tenancies peak demand will be week days, whilst the retail and club operations will have a peak demand on weekends and evenings. The 'realistic' week day and week end/evenings demand was estimated (in the report) to require 287 and 311 car parking spaces respectively.</p> <p>The development provides for 420 car parking spaces within the basement levels and the at grade car parking.</p> <p>The development has located 200 of the 420 car parking spaces within the R2 zoned land. The development is prohibited in the R2 zone and the parking cannot be accommodated in this area.</p>	No

Planning agreements [section 4.15(1)(a)(iia)]

There are no planning agreements that apply to this development application.

The regulations [section 4.15(1)(a)(iv)]

The proposed development is consistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

The likely impacts of the development [section 4.15(1)(b)]

The absence of an acoustic report, a detailed site investigation report and flood modelling means that Council is unable to conclude that the development will have an acceptable impact on the immediate locality. It is fair to say that the scale of the development does not align with the controls, standards and objectives relating to a site that is zoned part B1 and part R2. The impacts of this development extend beyond what one would expect from a compliant development having regard to envisaged bulk and scale, building height, floor space ratio, etc.

Suitability of the site [section 4.15(1)(c)]

The application, as submitted, fails to establish permissibility of the development on the site. That is, the development is reliant upon the R2 zoned land to provide vehicular access to the commercial development on the B1 zoned portion of the site. The applicant has also 'taken' the GFA available on the R2 zoned land and used it on the B1 zoned portion of the development site. While these are fundamental issues, the assessment report has identified numerous other non compliances that suggest that this particular development would be suited to a more intense or higher land use zoning.

It is evident that to overcome the planning issues raised in this assessment, the applicant has relied on the planning proposal that is under consideration on this site.

The development, as assessed, fails the current controls and standards to an unacceptable level. The development application has been lodged prematurely and should be re-lodged at such a time as the relevant planning controls are in place to facilitate the achievement of a compliant development.

Submissions [section 4.15(1)(d)]

The application was advertised/notified for a period of 21 days. Two objections were received during this period. Concerns were raised in respect to the following; a loss of views for the adjoining developments, the size and scale of the proposal, the viability of the commercial component proposed, the increase in vehicle movements resulting from the development proceeding, the number of the storeys proposed and the impacts on stormwater, noise and privacy.

Submission: Impeding the views of adjoining developments

Response: It is recommendation of this report that the development not be supported, in part, because of the breaches to the applicable floor space ratio and building height standards as contained in the *Bankstown Local Environmental Plan 2015*. While there has been no specific view or outlook identified in the submission as to have been lost or impeded, it is fair to say any impacts on views or outlooks would potentially be reduced or minimised through a compliant development particularly with respect to the applicable floor space ratio and building height development standards.

Submission: The development is not suited to the area as the three storey building is not compatible with other development in the area.

Response: As evidenced by the content of this report, Council's assessment of this development, in part, concurs with this comment. The zoning of this land, particular the business zoning, does not envisage a building of this bulk and scale.

Submission: Concern over empty business in nearby premises, the viability of this developments commercial floor space is unclear. The area is quiet away from trains, shopping centres and other hubs.

Response: Council's assessment of this development concurs with this comment. The viability of the commercial floor area proposed within the development has not been provided.

Submission: Concern over traffic generation and vehicle movements given the proximity to the intersection is already busy.

Response: The application was accompanied by a parking and traffic report that sought to justify the number of spaces provided for the development. The proposal as designed fails to demonstrate compliance with the necessary Australian Standards in respect to maneuvering within the parking areas as shown.

Submission: Concern over increased stormwater run off

Response: Council's development engineers have reviewed the information that was submitted by the applicant and are not satisfied that the proposal has adequately demonstrated the flow depths and velocities in relation to the flooding on site and the potential impact on the subject development and adjoining properties.

Submission: Concern over contamination/ contaminated land on site

Response: The report provides for an assessment against the provisions contained within SEPP 55. It was found that Council was not satisfied that sufficient information had been provided to determine the suitability of the site with regard to site contamination.

Submission: The existing club impacts the surrounding properties currently, and the redevelopment will bring additional background noise and impact surrounding properties

Response: The subject development application was not accompanied by an acoustic report. In the absence of a report being submitted, Council is unable to determine the acoustic impact of the development on the adjoining land uses.

Submission: Potential visual privacy concerns given the building height

Response: It is considered that the development proposes limited adverse privacy impacts in respect to the neighbouring residential dwellings given the setbacks proposed and orientation and location of the openings within the development. Residential dwellings to the south and east, across Canterbury Road and Punchbowl Road respectively, are in excess of 25 metres away from the development with views from the development site to these residential properties available only to their front yards. All other residential allotments, not forming part of this site, are in excess of 50 metres away.

Submission: Concern is raised over the size of the plans sent out, size and details shown. Concern that Council has restricted the information sent out.

Response: Council's standard notification letter included an A4 sized notification plan set. Full detailed, scaled plans were available for viewing at Council's Customer Service Centre as outlined in the notification letter that was sent.

The public interest [section 4.15(1)(e)]

The public interest is best served by the consistent application of the requirements of the relevant environmental planning instruments and by ensuring that any adverse impacts on the surrounding area and the environment are avoided. As this report has demonstrated, this development fails to satisfy a number of the principle planning provisions, namely permissibility, floor space ratio and building height (amongst others).

Varying the floor space ratio and the building height development standards to the extent as requested by the applicant would severely undermine the integrity of these standards so much so that it would reduce the ability for Council to uphold them in the future. Notwithstanding this, and probably more relevant, is that elements of the development are not permissible. As such, approval of this development would not be in the public interest.

CONCLUSION

The development application has been assessed against the matters for consideration contained in Section 4.15 of the *Environmental Planning and Assessment Act, 1979* requiring, amongst other things, an assessment against *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Infrastructure) 2007*, *Greater Metropolitan Regional Environmental Plan No 2 — Georges River Catchment* (a deemed SEPP), *Bankstown Local Environmental Plan 2015*, *Bankstown Development Control Plan 2015* and the Draft Consolidated Canterbury Bankstown Local Environmental Plan 2020.

As the report has demonstrated, the application failed to satisfy the provisions contained within *State Environmental Planning Policy No. 55 – Remediation of Land*, *State Environmental Planning Policy (Infrastructure) 2007*, *Bankstown Local Environmental Plan 2015* and the *Bankstown Development Control Plan 2015*.

RECOMMENDATION

It is recommended that the application be refused.